

## REMARKS

This application has been reviewed further in light of the Office Action dated November 14, 2008. Claims 1-17, 51-58, and 72-101 remain pending in this application. Claims 1, 5, 51, 53, 72, 76, 77, 82, and 84 are in independent form. Claims 5-9 and 53 stand allowed. Favorable reconsideration is requested.

Claims 1-4, 13, 14, 17, 51, 52, 56, 72-85, 87, 91, 95 and 99 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,477,288 (*Sato*). Claims 10-12, 54, 55, 86, 89, 90, 93, 94, 96, 98, and 100 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Sato*. Claims 15, 16, 57, 58, and 101 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Sato* in view of U.S. Patent No. 5,986,783 (*Sharma et al.*).

According to Claim 1, a first switch of a node is coupled through plural first optical fibers and plural second optical fibers to a first, adjacent node, and a second switch of the node is coupled through plural other first optical fibers and plural other second optical fibers to a second, adjacent node. The first optical fibers, the second optical fibers, the other first optical fibers, and the other second optical fibers, are each, at least in part, external to the node. Additionally, an end of each first optical fiber and an end of each second optical fiber is attached to the first switch, an end of each other first optical fiber and an end of each other second optical fiber is attached to the second switch. Thus, the first switch and second switch are both attached to the end of *at least four* optical fibers

that at least partly span external to the node. *See*, for example Figs. 2 and 3 <sup>1/</sup>, including, for example, fibers 70a, 70b, 72a, and 72b that are attached at ends thereof to switch 25, and fibers 80a, 80b, 82a, and 82b that are attached at ends thereof to switch 27 (Fig. 3).

The Office Action states on page 7 that:

“Applicant’s arguments filed 07/17/08 have been fully considered but they are not persuasive. As noted in the updated office action, Sato continues to anticipate the claimed invention by disclosing the newly added limitations drawn to fibers at least partially external to the node. Although applicant argues that components 26 and 28 are internal to the node ‘N’ the claim simply requires that the fibers be ‘at least in part’ external to one of the node. Sato clearly teaches as much via disclosure of fibers 5 and 7 on both sides of node ‘N’ that are clearly external to the node.”

However, such singular “fibers 5 and 7” of *Sato* are the only two such “fibers” seen to have an end attached to the switch 13 and that extend external to the node N. The same applies for the “fibers” 5 and 7 associated with switch 14 of *Sato*. *See, e.g.*, Fig. 5A. Components 26, 28, and 30 of *Sato*, are internal to the node N.

Thus, even if those components be deemed to be optical fibers as alleged in the Office Action, they are included *within* the node N, and do not extend externally to the node N. Nothing has been found in *Sato* that is understood to teach or suggest the above-underlined recitations of Claim 1. Therefore, that claim is believed to be clearly patentable over *Sato*, and thus withdrawal of the Section 102(e) rejection of Claim 1 is requested.

---

<sup>1/</sup> It should be understood, of course, that Figs. 2 and 3 are referred to herein for illustrative purposes only, and the claims should not be construed as being limited only to the embodiment(s) depicted.

Independent Claim 51 is a node claim having features similar in many relevant respects to those of Claim 1 emphasized above, and also is believed to be clearly patentable over *Sato* for the same reasons as those set forth above with respect to Claim 1.

Independent Claim 72, as amended, recites, in part, that plural first optical fibers form at least two working paths and plural second optical fibers form at least two protect paths and that at least one of the switches of at least one of the nodes is coupled to at least one of the switches of at least one other of the nodes through the plural first optical fibers and the plural second optical fibers that extend, at least in part, external to at least one of the nodes. Each of the first and second optical fibers has an end attached to at least one switch of one of those nodes.

Independent Claim 76 recites, in part, that at least one of the switches is attached to and coupled to an end of each of the plural first optical fibers and the plural second optical fibers, and the plural first optical fibers and the plural second optical fibers are external to the line node.

Independent Claim 77 recites, in part, that at least one switch of at least one node is coupled to at least one switch of at least one other node through plural first optical fibers and the plural second optical fibers, and the plural first optical fibers and the plural second optical fibers are external to the at least one node and each have an end attached to the at least one switch of the at least one node.

Independent Claims 82 and 84 recite that at least one of the switches is attached and coupled to an end of each of the plural first optical fibers forming plural working paths and an end of each of the plural second optical fibers forming plural protect

paths. The plural first optical fibers and the plural second optical fibers are external to the line node.

As pointed out above, in Fig. 5A of *Sato*, the singular “fibers 5 and 7” of *Sato* are the only two such “fibers” seen to have an end attached to the switch 13 and to extend external to the node N. Nothing has been found, or pointed out in *Sato* that would teach or suggest the above-recited features of Claim 72, 76, 77, 82, and 84. Accordingly, those claims are believed to be clearly patentable over *Sato*.

A review of *Sharma et al.* has failed to reveal anything which is understood to remedy the above-described deficiencies of *Sato* against the independent claims herein. Accordingly, those claims are believed to be patentable over both of those references.

The other pending claims in this application are each dependent from one or another of the independent claims discussed above and also are believed to be patentable over the art relied on in the Office Action for the same reasons as are those independent claims. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

Should the Examiner believe that issues remain outstanding, he is respectfully requested to contact Applicants’ undersigned attorney in an effort to resolve such issues and advance the case to issue.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

/Frank A. DeLucia/

Frank A. DeLucia  
Attorney for Applicants  
Registration No.: 42,476

FITZPATRICK, CELLA, HARPER & SCINTO  
30 Rockefeller Plaza  
New York, New York 10112-3801  
Facsimile: (212) 218-2200

FCBS\_WS 3289780v1